

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER JOHNSON,

Petitioner, Civil No. 2:06-CV-14010
v. HONORABLE DENISE PAGE HOOD
CHIEF UNITED STATES DISTRICT JUDGE

HUGH WOLFENBARGER,

Respondent,

**OPINION AND ORDER DENYING THE MOTION OR REQUEST TO
REOPEN THE PETITION FOR WRIT OF HABEAS CORPUS**

Before the Court is Petitioner's motion or request to reopen the petition for writ of habeas corpus. For the reasons that follow, the motion is DENIED.

This Court granted petitioner a writ of habeas corpus, finding that he did not knowingly and voluntarily waive his right to a jury trial. *Johnson v. Wolfenbarger*, No. 2:06-CV-14010, 2009 WL 1883895 (E.D. Mich. June 29, 2009). The United States Court of Appeals for the Sixth Circuit reversed this Court’s decision and instructed this Court on remand to deny habeas relief. *Johnson v. Wolfenbarger*, 391 F. App’x 510 (6th Cir. 2010). On remand, this Court entered an order denying habeas relief. (ECF 16).

Petitioner has now filed a request to reopen the case. Petitioner in his request again argues that he did not knowingly and intelligently waive his right to a

jury trial. (ECF 18).

28 U.S.C. § 2244(b)(1) states that a claim presented in a second or successive habeas corpus application under § 2254 that was presented in a prior application must be dismissed. *Tyler v. Cain*, 533 U.S. 656, 661 (2001); *see also In re Salem*, 631 F.3d 809, 812 (6th Cir.2011); *In Re Siggers*, 132 F.3d 333, 336 (6th Cir. 1997). Petitioner has already raised his claim concerning the validity of his jury trial waiver in his first petition; 28 U.S.C. § 2244(b)(1) precludes him from raising this claim again. Accordingly, the request to reopen the petition is denied.

IT IS HEREBY ORDERED that the request to reopen the petition for writ of habeas corpus (ECF 18) is DENIED.

Dated: February 12, 2020

s/Denise Page Hood

Chief Judge, United States District Court